

APR 10 2003

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BY _____
DEPUTY CLERK

UNITED STATES

Plaintiff,

v.

DANIEL J. GLEASON, individually and d/b/a
TAX TOOLBOX, INC., and MY TAX MAN,
INC.

Defendant.

Civil No. **8-03 0811**

JUDGE HAYNES

JUDGE BROWN

Complaint and Request for Injunctive Relief

Plaintiff United States of America, for its complaint against defendant Daniel J. Gleason, individually and doing business as Tax Toolbox Inc., and My Tax Man, Inc., states as follows:

Jurisdiction and Venue

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
2. This suit is brought under 26 U.S.C. §§ 7402 and 7408 to restrain and enjoin Gleason, individually and doing business as Tax ToolBox Inc. and My Tax Man Inc., from:
 - a. Engaging in activity subject to penalty under 26 U.S.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludibility of income or any other tax benefit by participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter;
 - b. Advocating, through the Tax Toolbox, websites, seminars, and other promotional materials, the false and frivolous position that federal income taxes can be legally reduced or eliminated by creating home-based businesses which lack any profit objective and whose sole purpose is to evade taxes;

- c. Making false statements about the allowability of any deductions or credits; and
- d. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws through the promotion of a false tax scheme.

3. This suit is also brought under 26 U.S.C. § 7407 to restrain and enjoin Gleason, a federal income tax return preparer, individually and doing business as Tax ToolBox Inc. and My Tax Man Inc., from:

- a. Misrepresenting his eligibility to practice before the IRS and his experience or education as an income tax return preparer; and
- b. Guaranteeing the payment of any tax refund or the allowance or any tax credit.

4. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General under 26 U.S.C. §§ 7402, 7407, and 7408.

5. Gleason resides at 3046 Trotters Lane, Franklin, TN 37067. Gleason does business as Tax ToolBox, Inc. and My Tax Man Inc., at 133 Holiday Court, Suite 133, Franklin, TN 37064. Gleason also conducts business nationwide through websites located at www.taxtoolbox.com and www.mytaxman.net. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396.

Gleason's Home-Based-Business Tax-Avoidance Scheme

6. Gleason prepares, promotes, and markets the Tax Toolbox, a collection of tapes, pamphlets, workbooks, a CD-Rom and record-keeping aids.

7. The Tax Toolbox is a sham home-based business package that falsely promises taxpayers they can legally reduce or eliminate federal income taxes merely by setting up a home-based business, regardless of whether the business is intended to show a profit.

8. Gleason markets the Tax Tool Box nationwide through his websites and by at least 44 franchisees, known as “purchasing associates,” who aggressively market the Tax Toolbox in selected geographic regions.

9. In 2002 alone, Gleason, individually or through his franchisees, sold an estimated 3,500 Tax Toolboxes to customers in all 50 states, plus Guam.

10. Gleason’s customers are primarily located in the South and in California, Texas, Utah, Washington, and Wisconsin, although he has sold the Tax Toolbox to customers in all 50 states, plus Guam.

11. In promoting this scheme, Gleason falsely asserts that if there is some type of business in a taxpayer’s house, non-deductible personal expenses, including college education, weddings, children’s allowances, all medical expenses, vacations and commuting, can be automatically converted to legitimately deductible business expenses.

12. Gleason also falsely states in audiotapes sold as part of the Tax Toolbox promotion that “a business of your own is a magic wand that can make your taxes disappear by allowing you to legally deduct more of what you’re already spending on those things like travel, meals, golf, cars, medical expenses, kids’ allowances, everyday household expenses, and much, much more.”

13. In promotional materials and in the Taxtool Box purchased by customers, Gleason fails to inform his customers that in order to claim deductions for home-based business expenses, the expenses must be reasonable and necessarily related to the business and to the production of income. Gleason also does not inform his customers that to claim income tax deductions for a home-based business, the business must be created with an actual and honest objective of making a profit.

14. In his promotional materials and at his websites, Gleason has continually and repeatedly misrepresented his education and experience. Gleason falsely represents that he is a recognized “tax expert,” has earned a “doctorate” in tax law, and is a “tax attorney, specifically certified by the U.S. Tax Court.” Gleason falsely bolsters the claim that he is an attorney by inviting potential customers to download at the www.taxtoolbox.com website a copy of his purported juris doctorate “diploma” from “LaSalle University” of Saint Louis, Missouri.

15. Although claiming to be a “tax attorney,” Gleason is not admitted to the bar in any state or jurisdiction.

16. On information and belief, Gleason has never attended an accredited law school. LaSalle University is not an accredited law school, but merely a diploma mill, which grants degrees based on “life experience” rather than formal legal education.

17. In addition, although Gleason is admitted to the U.S. Tax Court by examination, this examination procedure is only used to admit practitioners who are *not* attorneys.

18. Gleason has been repeatedly told by a former employee, an ex-IRS agent, that several of Gleason’s home-based-business tax-avoidance schemes—including deducting medical expenses, payments made to children who are “employed” by the home-based business, and commuting expenses—are not allowed under the internal revenue code.

19. Gleason agreed that these personal expenses are not deductible, yet stated that he would continue to advise his customers to seek these deductions because the “clients would never understand.”

20. Based on his professed expert knowledge of the internal revenue laws, Gleason knows or should know that courts have repeatedly and recently held that deductions for personal

consumption expenditures are not allowed when taxpayers create home-based businesses purely for tax avoidance purposes and without an actual and honest objective of making a profit.

21. Gleason knows or should know of a recent IRS warning labeling the “home-based business tax avoidance schemes” one of the IRS’s “Dirty Dozen” of tax avoidance schemes.

22. In promoting the Tax Toolbox scheme at www.taxtoolbox.com and in other promotional materials, Gleason offers his customers a “Double Your Money Back Guarantee.” Gleason’s website states that “(i)f you have not received at least double what you paid for your Tax Toolbox program in new tax refunds or lower taxes after your first full year of utilizing the Toolbox plan, we will refund double what you paid for you package.” Gleason’s website boasts that this double your money back guarantee is worth \$990 (representing double what customers pay for the package—\$495).

23. In promotional materials and on his websites, Gleason, who is also a paid return preparer, has continually and repeatedly misrepresented his eligibility to practice to before the IRS by representing that he was at all times an enrolled agent with the IRS and permitted to act as power of attorney for taxpayers on that basis, even during a period when his enrolled-agent status had lapsed.

Harm to the Government

24. Based on Gleason’s representation to the IRS that he sold over 3,500 Tax Toolboxes in 2002 alone and his guarantee that customers will receive at least a \$990 refund per year, the IRS conservatively estimates that the potential harm caused by Gleason’s sham home-based-business tax-avoidance scheme is at least \$3,465,000 *per year*. This figure does not

include other years in which Gleason sold the Tax Toolbox or the damage caused by customers who receive more than the promised minimal refund of \$990.

25. In addition, the IRS will have to devote substantial resources to auditing Gleason's customers. Moreover, because Gleason's estimated 44 "purchasing associates" continue to aggressively market the Tax Toolbox nationwide, the government's damages will increase exponentially if Gleason is not immediately enjoined.

26. Gleason continues to promote this false and fraudulent scheme, even after the IRS informed him that his promotion asserts false and misleading statements about material matters under the internal revenue laws.

27. Gleason continues to represent himself as an attorney, even after the IRS informed him that he must stop falsely representing himself as an attorney.

Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6700

28. The United States incorporates by reference the allegations in paragraphs 1 through 27.

29. 26 U.S.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under 26 U.S.C. § 6700 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

30. 26 U.S.C. § 6700 penalizes any person who organizes or sells a plan or arrangement and makes, in connection with organizing or selling the plan or arrangement, a statement regarding the excludibility of income or securing of other tax benefit that the person knows or has reason to know is false or fraudulent as to any material matter.

31. Gleason, either individually or through Tax Toolbox Inc. and My Tax Man, Inc., organizes and sells abusive tax schemes. In organizing and selling these abusive tax schemes, Gleason makes false or fraudulent statements regarding the deduction of expenses for home-based businesses. Gleason knows or has reason to know that his programs and program materials contain false or fraudulent statements within the meaning of 26 U.S.C. § 6700.

32. If he is not enjoined from promoting the home-based-business tax-avoidance scheme describe above, Gleason is likely to continue to organize and sell his sham home-based business tax avoidance scheme.

Count II

Return-preparer injunction under 26 U.S.C. § 7407

33. The United States incorporates by reference the allegations in paragraphs 1 through 32.

34. 26 U.S.C. § 7407 authorizes a court to enjoin a person from acting as an income-tax-return preparer if that person has continually or repeatedly:

- a. misrepresented his eligibility to practice before the IRS, or otherwise misrepresented his experience or education as an income tax return preparer, or
- b. guaranteed the payment of any tax refund or allowance of any tax credit.

35. Gleason has continually and repeatedly falsely represented to customers and the IRS that he is an attorney, when he is not licensed to practice in any state, and that he is an enrolled agent with the IRS, when this status has lapsed.

36. Gleason has continually and repeatedly guaranteed that his customers will receive tax refunds, when no such guarantees are permitted under the internal revenue laws.

37. Gleason has continued to make these false statements even after the IRS informed him that he is not an attorney or an enrolled agent, and that tax refunds cannot be “guaranteed.”

WHEREFORE, plaintiff, the United States of America, respectfully prays for the following:

A. That the Court find that Gleason, individually and doing business as Tax Toolbox Inc. and My Tax Man Inc., has engaged in conduct subject to penalty under 26 U.S.C. § 6700, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That the Court find that Gleason, individually and doing business as Tax Toolbox Inc. and My Tax Man Inc., continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that injunctive relief under 26 U.S.C. § 7407, is appropriate to prevent the recurrence of that conduct;

C. That this Court, under 26 U.S.C. §§ 7402 and 7408, enter a permanent injunction prohibiting Gleason, individually and doing business as Tax Toolbox Inc. and My Tax Man Inc., and through any other name or entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

- a. Engaging in activity subject to penalty under 26 U.S.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludibility of income or any other tax benefit by participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter;
- b. Advocating, through the Tax Toolbox, his website, seminars, or other promotional materials, the false and frivolous position that federal income taxes can be legally reduced or eliminated by creating home-based businesses which lack any profit objective and whose sole purpose is to evade taxes;

- c. Making false statements about the allowability of any deductions or credits; and
- d. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws through the promotion of a false tax scheme.

D. That the Court, under 26 U.S.C. § 7407, enter a permanent injunction prohibiting Gleason, individually and doing business as Tax Toolbox Inc. and My Tax Man Inc., and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

- a. Misrepresenting his eligibility to practice before the IRS and his experience or education as an income tax return preparer; and
- b. Guaranteeing the payment of any tax refund or the allowance or any tax credit.

E. That this Court, under 26 U.S.C. §§ 7402 enter an injunction requiring Gleason to contact by mail (and also by e-mail, if an address is known) all individuals who have purchased his abusive tax plan and inform those individuals of the Court's findings concerning the falsity of Gleason's prior representations and attach a copy of the permanent injunction against Gleason and his associates and related entities;

F. That this Court, under 26 U.S.C. §§ 7402 enter an injunction requiring Gleason to produce to the United States any records in his possession or to which he has access, identifying the persons who have purchased his abusive tax plans, arrangements, or programs (purchased either directly from him or from his associates or related entities);

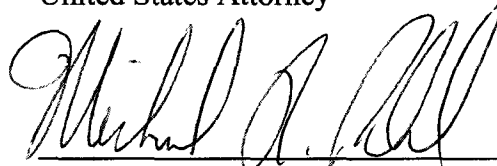
G. That this Court, under 26 U.S.C. §§ 7402 enter an injunction requiring Gleason and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, to remove from his websites all abusive tax scheme promotional

materials and false commercial speech, to display prominently on the first page of those websites a complete copy of the Court's permanent injunction, and to maintain the websites for one year with a complete copy of the Court's permanent injunction so displayed throughout that time;

H. That this Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

I. That this Court grant the United States such other relief, including costs, as is just and equitable.

JAMES K. VINES
United States Attorney

A handwritten signature in black ink, appearing to read "Michael R. Pahl", is written over a horizontal line.

MICHAEL R. PAHL
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-6488